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09/900,674	07/06/2001	Nick Nyhan	211367	6698

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EXAMINER
VAN DOREN, BETH

ART UNIT	PAPER NUMBER
3623	

MAIL DATE	DELIVERY MODE
08/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _08 June 2007_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,3,5-17,21-24 and 26-33_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,3,5-17,21-24 and 26-33_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   The following is a Final Office Action in response to communications receiving

06/08/2007. Claims 1, 5-7, 10, 13, 15, 17, 21, and 26 have been amended. Claims 2, 4, 18-20,

and 25 have been canceled. Claims 28-33 have been added. Claims 1, 3, 5-17, 21-24, and 26-33

are pending.

Response to Amendment

2.   Applicant's amendments to claims 1, 13, and 17 are sufficient to overcome the 35 USC

112, second paragraph, rejections set forth in the previous office action.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1, 3, 5-7, 11-17, 26-27, and 33 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Smith, Jr. et al. (U.S. 2002/0128898) in view of de Ment et al. (U.S.

6,728,755).

As per claim 1, Smith, Jr., et al. teaches a method for conducting an on-line survey in

association with presentation of an on-line advertisement by a browser client, the method

comprising:

Receiving by a user computer hosting a browser client a web page configured to display

an on-line advertisement (See figure 2A, paragraphs 54-55, 58, 118, 145-6, which discloses a

browser client and a server, wherein an advertisement banner is served to the client);

Issuing by the user computer in association with processing the received web page a request to an ad server for a block of data comprising computer-readable instructions for presenting the on-line advertisement via the browser client (See paragraphs 54-55, 58, 118, 122-5, 145-6, which discloses a browser client and a server, wherein an advertisement banner is served to the client);

providing, by the server in response to the issued request from the user computer the block of data including computer-readable instructions for presenting the originally accessed on-line advertisement and the block of data further including additional computer readable instructions that facilitate decision-making steps for determining whether to present an on-line solicitation via the browser client (See paragraphs 123-6, 134, 143-6, 151, and 155, wherein the ad is presented along with logic that decides if the survey/solicitation should be presented);

accessing cookie data on the user computer indicative that the on-line survey solicitations was previously presented by the browser client and denying access if the user has already been solicited (See paragraph 129).

However, while Smith, Jr. et al. discloses using cookie data to indicate previous solicitations, Smith, Jr., et al. does not expressly disclose using this cookie data to determine if the user should be presented the solicitation by accessing, on the user computer, a timestamp value indicative of a period of time that has passed since the online survey solicitation was previously presented by the browser client; and executing the additional computer-readable instructions if the timestamp value indicates passage of a period of time satisfying a prescribed wait period between consecutive presentations of the one line survey solicitation by the browser client on the user computer.

de Ment discloses accessing and analyzing cookie data of the user computer indicative of

a period of time that has passed since the on-line survey solicitation was previously presented by

a browser client and executing the additional computer readable instructions if the cookie values

indicate passage of a period of time satisfying the prescribed wait period between consecutive

presentations of the on-line survey solicitation by the browser client on the user computer (See

figure 3B, column 3, lines 25-35, column 4, lines 40-63, wherein cookie data is requested and

analyzed to see timing (i.e. has the user taken the survey within the last six months). The timing

in the cookie data is used to determine an elapsed time since the previous presentation and if the

elapsed time exceeds a time period corresponding to the time parameter, the solicitation may be

presented). However, de Ment does not expressly disclose that the cookie data includes a

timestamp.

Both de Ment and Smith Jr., et al. disclose presenting a survey solicitation to a user via a

browser client based on presentation criteria using cookie data to indicate previous solicitations.

Smith Jr., et al. specifically discloses screening a user to ensure that that user is an appropriate

candidate to be surveyed, such as by using cookie data. De Ment discloses utilizing on-line

surveys in order to characterize users and gain knowledge from these users, as well as utilizing

cookies and timeframe values to determine whether or not to serve a survey to a user. It would

have been obvious to one of ordinary skill in the art at the time of the invention to include the

timeframes of de Ment in the survey screening criteria of Smith Jr., et al. in order to more

efficiently field a survey to qualified recipients using appropriate screening criteria.

Further, both de Ment and Smith, Jr. et al., disclose the use of cookie data. De Ment

discloses utilizing on-line surveys in order to characterize users and gain knowledge from these

users, as well as utilizing cookies and timeframe values to determine whether or not to serve a

survey to a user. Examiner takes official notice that it is old and well known in the art that

cookie data includes timestamps which indicate the time a user of a computer undertook an

action. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to include timestamps in the cookie data of de Ment, since using old and well known

cookie timestamps in the cookie data of de Ment (this cookie data indicative of timeframe)

would achieve the predictable results of measuring the timeframe of user activity.

As per claim 3, Smith, Jr., et al. discloses receiving cookie data from a browser client

indicative of a previous presentation of the online survey solicitation (See paragraph 129).

As per claim 5, Smith, Jr. et al. teaches sending the block of data including the additional

computer readable instructions to the browser client over a computer network (See figure 2A,

paragraphs 54-55, 58, 118, 145-6, which discloses a browser client and a server, wherein an

advertisement banner is served to the client. See also paragraphs 123-6, 134, 151, and 155, which

discloses distributing over a computer network).

As per claim 6, Smith, Jr. et al. discloses presenting the on-line survey solicitation

thereby soliciting the user to take the on-line survey (See paragraphs 123-6, 134, 143-6, 151, and

155, wherein criteria about the user is used and the survey/solicitation is presented) as well as

using cookie data to indicate that the on-line survey solicitation was presented by the browser

client (see paragraph 129). However, Smith, Jr. et al. does not expressly disclose generating, in

association with the presenting step, cookie data including the timestamp value to indicate that

the online survey solicitation was presented by the browser client, and sending the generated

cookie data over a computer network to the browser client.

De Ment discloses generating, in association with the presenting step, cookie data indicating that the online survey solicitation was presented by the browser client, and sending the generated cookie data over a computer network to the browser client (See figure 3B, column 3, lines 25-35, column 4, lines 40-63, wherein cookie data is requested and analyzed to see timing (i.e. has the user taken the survey within the last six months). The timing in the cookie data is used to determine an elapsed time since the previous presentation and if the elapsed time exceeds a time period corresponding to the time parameter, the solicitation may be presented). However, de Ment does not expressly disclose that the cookie data includes a timestamp value.

Both de Ment and Smith Jr., et al. disclose presenting a survey solicitation to a user via a browser client based on presentation criteria using cookie data to indicate previous solicitations. Smith Jr., et al. specifically discloses screening a user to ensure that that user is an appropriate candidate to be surveyed, such as by using cookie data. De Ment discloses utilizing on-line surveys in order to characterize users and gain knowledge from these users, as well as utilizing cookies and timeframe values to determine whether or not to serve a survey to a user. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the timeframes of de Ment in the survey screening criteria of Smith Jr., et al. in order to more efficiently field a survey to qualified recipients using appropriate screening criteria.

Further, both de Ment and Smith, Jr. et al., disclose the use of cookie data. De Ment discloses utilizing on-line surveys in order to characterize users and gain knowledge from these users, as well as utilizing cookies and timeframe values to determine whether or not to serve a survey to a user. Examiner takes official notice that it is old and well known in the art that cookie data includes timestamps which indicate the time a user of a computer undertook an

action. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include timestamps in the cookie data of de Ment, since using old and well known cookie timestamps in the cookie data of de Ment (this cookie data indicative of timeframe) would achieve the predictable results of measuring the timeframe of user activity.

As per claim 7, Smith, Jr. et al. discloses executing the additional computer-readable instructions to perform steps of: referencing a frequency parameter that influences the frequency of presenting the on-line survey solicitations and determining whether or not to present the on-line survey via the browser client based, in part, on the frequency parameter (See paragraphs 129-130, which discloses the frequency with which the online survey is displayed (number of times per campaign, number of times per user, etc.)).

As per claim 11, Smith, Jr. et al. discloses presenting an on-line survey solicitation and a link to the on-line survey (See paragraphs 123-6, 134, 143-6, 151, and 155). However, Smith, Jr. et al. does not expressly disclose and de Ment dislcoses presenting the on-line survey solicitation as a pop-up window and in response to activation of a link within the pop-up window, sending a web page to the browser client, the web page comprising questions regarding a product or service advertised in the on-line advertisement (See column 2, lines 1-15 and 45-65, column 3, line 44-column 4, lines 15, column 5, lines 35-60, and figure 3B, wherein a pop-up window is displayed. The user clicks through to a survey concerning a service of the webpage).

Smith, Jr. et al. discloses presenting an on-line survey solicitation and a link to the on-line survey. Pop-ups, as taught by de Ment, are well known in a web-environment and are used in survey methods. Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention to link to the survey solicitation via a pop-up window in order to more effectively gain the attention of the user by "popping up" a small graphical user interface.

As per claim 12, Smith, Jr. et al. discloses presenting an on-line survey solicitation and a link to the on-line survey (See paragraphs 123-6, 134, 143-6, 151, and 155). However, Smith, Jr. et al. does not expressly disclose and de Ment dislcoses presenting the on-line survey solicitation as a pop-up window and in response to activation of a link within the pop-up window, sending a web page to the browser client, the web page comprising questions regarding a product or service advertised in the on-line advertisement (See column 2, lines 1-15 and 45-65, column 3, line 44-column 4, lines 15, column 5, lines 35-60, and figure 3B, wherein a pop-up window is displayed. The user clicks through to a survey concerning a service of the webpage). However, de Ment does not expressly disclose that the pop-up concerns a product or service that is not advertised in the on-line advertisement.

Smith, Jr. et al. discloses presenting an on-line survey solicitation and a link to the on-line survey. Pop-ups, as taught by de Ment, are well known in a web-environment and are used in survey methods. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to link to the survey solicitation via a pop-up window in order to more effectively gain the attention of the user by "popping up" a small graphical user interface.

Further, de Ment discloses that the user is provided an advertisement for a survey via a pop-window based on the user's use of a search tool. The questions following this original invitation include questions concerning general computer use and services. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a general nature of the questions in the original pop-up in order to increase the convenience of the

survey by allowing the respondent to know upfront the types of questions he/she will encounter. See column 3, line 45-column 4, line 25.

Claims 13 and 14 are substantially similar to claim 1 and are therefore rejected using the same art and rationale set forth above, as necessitated by amendment.

As per claim 15, Smith, Jr. et al. discloses wherein the one or more requested files comprise computer readable instructions for displaying the online advertisement and wherein the further instructions call a routine that decides whether or not to solicit the user to take the online survey based on a frequency parameter, the frequency parameter being indicative of a probability that in response to the selectively modifying step, the online solicitation will be submitted for presenting to the browser (see paragraphs 129-130, wherein a routine checks frequency and whether or not the system is able to display the solicitation).

Claim 16 recites equivalent limitations to claim 11 and is therefore rejected using the same art and rationale applied above.

Claim 17 is substantially similar to claim 1 and is therefore rejected using the same art and rationale set forth above, as necessitated by amendment.

As per claim 26, Smith, Jr. et al. discloses wherein the advertisement service adds first computer readable instructions for invoking a decision routine to the advertisement data when consideration is to be given to sending the on-line survey solicitation to the computer (See paragraphs 123-6, 134, 143-6, 151, and 155).

As per claim 27, Smith, Jr. et al. teaches wherein the survey logic server provides first computer readable instructions to the ad server (See paragraphs 145-6, 148-51, 155, wherein the survey server interacts with the ad server).

As per claim 33, Smith, Jr. et al. teaches wherein the prescribed wait period is specified by a survey logic server (See paragraphs 129-130, 145-6, 151, 155).

5.   Claims 8-10, 21-24, and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al. (U.S. 2002/0128898) in view of de Ment et al. (U.S. 6,728,755) and in further view of Winn (U.S. 6,901,424).

As per claims 8 and 9, Smith, Jr. et al. discloses wherein the online survey solicitation is presented as part of a campaign, wherein the frequency parameter has a value that is at least partially a function of an amount of time remaining in the campaign (See paragraphs 129-130, which discloses the frequency with which the online survey is displayed (number of times per campaign, number of times per user, etc.)). However, neither Smith, Jr. et al., nor de Ment expressly disclose calculating the value of the frequency parameter according to an algorithm that incorporates the amount of time remaining or by referencing a look-up table that correlates a plurality of possible times remaining with corresponding possible frequency values. Winn discloses sampling rate and frequency algorithms/processes, and further discloses soliciting users only once for a specific survey (See column 3, lines 45-65, column 4, lines 10-20 and 30-41) and wherein the frequency parameter is determined by referencing a look-up table (See column 3, lines 50-65, and column 4, lines 29-40). Winn further discloses a marketing campaign (See column 4, lines 10-20, which discloses a survey project).

Smith, Jr. et al. and de Ment are combinable for the reasons set forth above. Further, Smith, Jr. et al. and Winn disclose systems for soliciting a user to take an on-line survey and

utilizing cookies and frequency values to determine whether or not to serve a survey to a user. Winn specifically discloses using sampling rates, frequency values, and frequency to determine whether to invite a user to take a survey, as well as cookie data indicating whether or not the user has been previously solicited. It would have been obvious to one of ordinary skill in the art at the time of the invention to include time values associated with the campaign in association with the frequency parameters of the survey in order to more efficiently gather information from users of the system by defining the goals and objectives of the data to be collected.

As per claim 10, neither Smith, Jr. et al. not de Ment disclose and Winn teaches executing the additional computer-readable instructions to perform steps of: generating a random number; determining whether the random number falls within a set of numbers that correspond to a the frequency with which the on-line survey solicitation is presented via browser clients; and presenting the online survey solicitation based on the determining step (See column 4, lines 9-20 and 29-41, which discloses random number generation in the context of frequency selections).

Smith, Jr. et al. and de Ment are combinable for the reasons set forth above. Further, Smith, Jr. et al. and Winn disclose systems for soliciting a user to take an on-line survey and utilizing cookies and frequency values to determine whether or not to serve a survey to a user. Winn specifically discloses random number generation in the context of frequency selections, as well as cookie data indicating whether or not the user has been previously solicited. It would have been obvious to one of ordinary skill in the art at the time of the invention to include random number generation in the frequency parameters of Smith, Jr. et al. in order to more efficiently gather information from users of the system by defining the goals and objectives of the data to be collected.

Claims 21, 22, 23, 24, and 28 recite substantially similar limitations to claims 10, 7, 8, 9, and 10, respectively, and are therefore rejected using the same art and rationale set forth above.

As per claim 29, Smith, Jr. et al. teaches wherein the frequency parameter is specified by a survey logic server (See paragraphs 130, 145-6, 151, 155, which disclose frequency and survey servers).

As per claim 30, Smith, Jr. et al. discloses a frequency parameter associated with a survey campaign (See paragraphs 129-130). However, Smith, Jr. et al. does not expressly disclose, nor do de Ment nor Winn, disclose changing the frequency parameter during a survey campaign.

Smith Jr. et al. discloses defining and executing a advertisement and survey campaign wherein the campaign is designed by the survey client. It is old and well known to be able to edit a marketing or survey campaign in order to ensure that expected results are secured. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to edit the campaign of Smith, Jr., et al. in order to ensure that wanted results are achieved.

As per claim 31, Smith Jr. et al. teaches a survey logic server (See paragraphs 130, 145-6, 151, 155). However, neither Smith, Jr. et al. nor de Ment expressly discloses providing the random number.

Winn teaches generating a random number (See column 4, lines 9-20 and 29-41, which discloses random number generation in the context of frequency selections).

Smith, Jr. et al. and de Ment are combinable for the reasons set forth above. Further, Smith, Jr. et al. and Winn disclose systems for soliciting a user to take an on-line survey and utilizing cookies and frequency values to determine whether or not to serve a survey to a user.

Winn specifically discloses random number generation in the context of frequency selections, as well as cookie data indicating whether or not the user has been previously solicited. It would have been obvious to one of ordinary skill in the art at the time of the invention to include random number generation in the frequency parameters of Smith, Jr. et al. in order to more efficiently gather information from users of the system by defining the goals and objectives of the data to be collected.

As per claim 32, Smith, Jr. et al. discloses using a URL by a browser on the user computer to contact the survey logic server (See at least paragraphs 143 and 146, wherein a URL is associated with the survey via a survey logic server). However, Smith, Jr. does not expressly disclose, nor does de Ment that the random number is appended to a URL used by a browser on the user computer to contact the survey logic server.

Winn teaches generating a random number; determining whether the random number falls within a set of numbers that correspond to a the frequency with which the on-line survey solicitation is presented via browser clients; and presenting the online survey solicitation based on the determining step (See column 4, lines 9-20 and 29-41, which discloses random number generation in the context of frequency selections). However, Winn does not expressly disclose that the random number is appended to a URL used by a browser on the user computer to contact the survey logic server.

Smith, Jr. et al. and de Ment are combinable for the reasons set forth above. Further, Smith, Jr. et al. and Winn disclose systems for soliciting a user to take an on-line survey and utilizing cookies and frequency values to determine whether or not to serve a survey to a user. Winn specifically discloses random number generation in the context of frequency selections.

Further, Examiner takes official notice that a URL includes numbers that indicate file locations

to which the URL will link. Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention to include random number generation in the frequency parameters

of Smith, Jr. et al. in order to more efficiently gather information from users of the system by

defining the goals and objectives of the data to be collected. Further, it would have been obvious

to one of ordinary skill in the art at the time of the invention to append the random number

generated to the URL in order to efficiently link to the correct file using the random number

generator.

Response to Arguments

6.   Applicant's arguments with respect to the previous 35.USC 103 rejections have been

fully considered, but are moot in view of the new grounds of rejection, necessitated by

amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cockrill et al. (U.S. 2002/0059114) discloses utilizing a timestamp in association with a cookie (at least paragraph 66).

Steinman et al. (U.S. 2002/0128898) teaches presenting advertisements while also using timestamps and cookies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is 571-272-6737. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bvd

August 19, 2007

BETH VAN DOREN
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